

108TH CONGRESS
1ST SESSION

H. R. 504

To provide for the reclamation of abandoned hardrock mines, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 2003

Mr. UDALL of Colorado introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the reclamation of abandoned hardrock mines, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, FINDINGS, AND PURPOSE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Abandoned Hardrock Mines Reclamation Act”.

6 (b) FINDINGS.—The Congress finds that:

7 (1) Through various laws and policies, including
8 the Act of May 10, 1872 (commonly known as the
9 General Mining Law of 1872; 30 U.S.C. 22 et seq.),

1 the Federal Government has encouraged the develop-
2 ment of gold, silver, and other mineral resources, es-
3 pecially in the western States, and development of
4 these resources has helped create a strong economy
5 and provided needed materials for many critical
6 products and services.

7 (2) However, historically mining activities have
8 occurred in recurrent cycles of “boom” followed by
9 “bust”, with many mines left inactive or abandoned
10 at the end of each cycle.

11 (3) As a result of this history, the United
12 States has been left an unwelcome legacy of inactive
13 or abandoned mines, including thousands of such
14 mines in the western States.

15 (4) Many of these inactive or abandoned mines
16 pose safety hazards to the public, and the drainage
17 and runoff from such mines has damaged thousands
18 of stream miles to the detriment of water quality,
19 particularly in several western States.

20 (5) The environmental cleanup of these inactive
21 or abandoned mines is hampered by lack of funding
22 and concerns about liability. In many cases, a re-
23 sponsible party for the mine site cannot be identified
24 or the responsible party lacks the economic resources
25 to respond to the adverse environmental effects of a

1 site. Federal and State agencies and Indian tribes
2 are often unable to afford to make cleanup of these
3 mine sites a high priority. Other parties have been
4 reluctant to undertake remedial actions of such a
5 mine site because of the possibility that they would
6 be considered to have assumed liability with regard
7 to the site.

8 (6) It is in the national interest to facilitate the
9 cleanup of inactive or abandoned mines through ap-
10 propriate legislation that reduces these obstacles.

11 (c) PURPOSE.—The purpose of this Act is to facili-
12 tate cleanup of inactive and abandoned mine sites by es-
13 tablishing a source of funding for that purpose and by lim-
14 iting the potential liability of parties undertaking to carry
15 out such cleanup.

16 (d) SCOPE.—Nothing in this Act is intended to facili-
17 tate new mining activities or any reduction in liability as-
18 sociated with any current or new mining or processing ac-
19 tivities.

20 **TITLE I—FUNDING FOR** 21 **ABANDONED MINE CLEANUPS**

22 **SEC. 101. DEFINITIONS.**

23 In this title:

24 (1) The term “gross proceeds” means the value
25 of any extracted hardrock mineral that was—

1 (A) sold;

2 (B) exchanged for any thing or service;

3 (C) removed from the country in a form
4 ready for use or sale; or

5 (D) initially used in a manufacturing proc-
6 ess or in providing a service.

7 (2) The term “net proceeds” means gross pro-
8 ceeds less the sum of the following deductions:

9 (A) The actual cost of extracting the min-
10 eral.

11 (B) The actual cost of transporting the
12 mineral to the place or places of reduction, re-
13 fining, and sale.

14 (C) The actual cost of reduction, refining,
15 and sale.

16 (D) The actual cost of marketing and de-
17 livering the mineral and the conversion of the
18 mineral into money.

19 (E) The actual cost of maintenance and re-
20 pairs of—

21 (i) all machinery, equipment, appa-
22 ratus, and facilities used in the mine;

23 (ii) all milling, refining, smelting and
24 reduction works, plants and facilities; and

1 (iii) all facilities and equipment for
2 transportation.

3 (F) The actual cost of fire insurance on
4 such machinery, equipment, apparatus, works,
5 plants, and facilities.

6 (G) Depreciation of the original capitalized
7 cost of such machinery, equipment, apparatus,
8 works, plants, and facilities.

9 (H) All money expended for premiums for
10 industrial insurance, and the actual cost of hos-
11 pital and medical attention and accident bene-
12 fits and group insurance for all employees.

13 (I) The actual cost of developmental work
14 in or about the mine or upon a group of mines
15 when operated as a unit.

16 (J) All royalties and severance taxes paid
17 to the Federal Government or State govern-
18 ments.

19 (3) The term “hardrock minerals” means any
20 mineral other than a mineral that would be subject
21 to disposition under any of the following laws if lo-
22 cated on land subject to the general mining laws:

23 (A) The Mineral Leasing Act (30 U.S.C.
24 181 et seq.).

1 (B) The Geothermal Steam Act of 1970
2 (30 U.S.C. 1001 et seq.).

3 (C) The Act of July 31, 1947, commonly
4 known as the Materials Act of 1947 (30 U.S.C.
5 601 et seq.).

6 (D) The Mineral Leasing Act for Acquired
7 Lands (30 U.S.C. 351 et seq.).

8 (4) The term “Secretary” means the Secretary
9 of the Interior.

10 (5) The term “patented mining claim” means
11 an interest in land which has been obtained pursu-
12 ant to sections 2325 and 2326 of the Revised Stat-
13 utes (30 U.S.C. 29 and 30) for vein or lode claims
14 and sections 2329, 2330, 2331, and 2333 of the Re-
15 vised Statutes (30 U.S.C. 35, 36, and 37) for placer
16 claims, or section 2337 of the Revised Statutes (30
17 U.S.C. 42) for mill site claims.

18 (6) The term “general mining laws” means
19 those provisions of law that generally comprise chap-
20 ters 2, 12A, and 16, and sections 161 and 162, of
21 title 30, United States Code.

22 (7) The term “Fund” means the Abandoned
23 Minerals Mine Reclamation Fund.

1 **SEC. 102. SOURCE OF REVENUES FOR ABANDONED MINE**
 2 **CLEANUP.**

3 (a) RECLAMATION FEE.—

4 (1) FEE IMPOSED.—Any person producing
 5 hardrock minerals from a mine within an
 6 unpatented mining claim or a mine on land that was
 7 patented under the general mining laws shall pay a
 8 reclamation fee to the Secretary under this section.

9 (2) FEE AS PERCENTAGE OF NET PROCEEDS.—

10 The amount of the fee under this section shall be
 11 equal to a percentage of the net proceeds derived
 12 from the mine. The percentage shall be based upon
 13 the ratio of the net proceeds to the gross proceeds
 14 related to mineral production from the mine in ac-
 15 cordance with the following table:

| Net proceeds as percentage of gross proceeds | Rate of fee as percentage of net proceeds |
|---------------------------------------------------------|------------------------------------------------------|
| Less than 10 | 2.00 |
| 10 or more but less than 18 | 2.50 |
| 18 or more but less than 26 | 3.00 |
| 26 or more but less than 34 | 3.50 |
| 34 or more but less than 42 | 4.00 |
| 42 or more but less than 50 | 4.50 |
| 50 or more | 5.00 |

16 (b) EXEMPTION.—Gross proceeds of less than
 17 \$500,000 from minerals produced in any calendar year
 18 shall be exempt from the reclamation fee under this sec-
 19 tion for that year if such proceeds are from one or more
 20 mines located in a single patented claim or on two or more
 21 contiguous patented claims.

1 (c) PAYMENT.—The amount of all fees payable under
 2 this section for any calendar year shall be paid to the Sec-
 3 retary within 60 days after the end of such year.

4 (d) DEPOSIT OF REVENUES.—The Secretary shall
 5 deposit amounts received under subsection (c) in the
 6 Abandoned Minerals Mine Reclamation Fund.

7 (e) RELATION TO STATE FEES.—Nothing in this Act
 8 shall be construed to require a reduction in, or otherwise
 9 affect, a similar fee provided for under State law.

10 (f) REDUCTION OF FEES.—The Secretary shall re-
 11 duce a fee required by this section by an amount equal
 12 to a royalty paid pursuant to an Act of Congress that pro-
 13 vides for crediting to the Fund of royalties paid to the
 14 Secretary with respect to production of hardrock minerals.

15 (g) EFFECTIVE DATE.—This section shall take effect
 16 with respect to hardrock minerals produced after Decem-
 17 ber 31, 2002, except that subsection (f) shall take effect
 18 one year after the date of the enactment of the law de-
 19 scribed in such subsection.

20 **SEC. 103. ABANDONED MINERALS MINE RECLAMATION**
 21 **FUND.**

22 (a) ESTABLISHMENT.—

23 (1) IN GENERAL.—There is established in the
 24 Treasury of the United States an interest-bearing
 25 fund to be known as the Abandoned Minerals Mine

1 Reclamation Fund. The Fund shall be administered
2 by the Secretary.

3 (2) INVESTMENT.—The Secretary shall notify
4 the Secretary of the Treasury as to what portion of
5 the Fund is not, in the Secretary's judgment, re-
6 quired to meet current withdrawals. The Secretary
7 of the Treasury shall invest such portion of the
8 Fund in public debt securities with maturities suit-
9 able for the needs of such Fund and bearing interest
10 at rates determined by the Secretary of the Treas-
11 ury, taking into consideration current market yields
12 on outstanding marketplace obligations of the
13 United States of comparable maturities. The income
14 on such investments shall be credited to, and form
15 a part of, the Fund.

16 (3) ADMINISTRATION.—The Secretary shall use
17 the existing Federal program for abandoned mine
18 reclamation authorized by title IV of the Surface
19 Mining Control and Reclamation Act of 1977 (30
20 U.S.C. 1231 et seq.) to administer the Fund and for
21 making expenditures from the Fund.

22 (b) USE AND OBJECTIVES OF THE FUND.—

23 (1) IN GENERAL.—Amounts in the Fund shall
24 be available to the Secretary, without further appro-
25 priation and until expended, to perform or support

1 reclamation and restoration activities affecting eligi-
2 ble areas, including any of the following:

3 (A) Reclamation and restoration of aban-
4 doned surface mined areas.

5 (B) Reclamation and restoration of aban-
6 doned milling and processing areas.

7 (C) Sealing, filling, and grading abandoned
8 deep mine entries.

9 (D) Planting of land adversely affected by
10 past mining to prevent erosion and sedimenta-
11 tion.

12 (E) Prevention, abatement, treatment, and
13 control of water pollution created by abandoned
14 mine drainage.

15 (F) Control of surface subsidence due to
16 abandoned deep mines.

17 (2) METHODS OF USE.—Subject to the special
18 disbursement requirements of subsection (g),
19 amounts in the Fund may be expended directly by
20 the Secretary or by making grants to approved State
21 reclamation programs, as described in subsection
22 (d). The Secretary shall consult and coordinate with
23 eligible States on those projects funded directly or in
24 conjunction with other Federal agencies.

1 (c) ELIGIBLE AREAS.—Reclamation expenditures
2 under this section shall be made only in States described
3 in subsection (e) and shall be used only for the reclamation
4 of lands (and related waters)—

5 (1) that were, but are no longer, actively mined
6 for hardrock minerals (and not in temporary shut-
7 down) as of the date of the enactment of this Act;

8 (2) that are not identified for remedial action
9 under the Comprehensive Environmental Response,
10 Compensation, and Liability Act of 1980 (42 U.S.C.
11 9601 et seq.) and for which there is no identifiable
12 owner or operator for the mine or mine facilities;

13 (3) that are not designated for remedial action
14 pursuant to the Uranium Mill Tailings Radiation
15 Control Act of 1978 (42 U.S.C. 7901 et seq.); and

16 (4) for which no evidence exists that the lands
17 contain minerals that economically could be ex-
18 tracted through the mining, reprocessing, or re-
19 mining of the lands.

20 (d) ELIGIBLE STATES.—

21 (1) ELIGIBILITY REQUIREMENTS.—Except as
22 provided in paragraph (2), expenditures from the
23 Fund shall be made only for reclamation of lands
24 and water in States that—

1 (A) contain lands subject to the general
2 mining laws; and

3 (B) have completed a statewide inventory
4 of abandoned hardrock sites within the State el-
5 igible to receive funding under this Act.

6 (2) INVENTORY FUNDING.—A State that con-
7 tains lands subject to the general mining laws, but
8 that has not completed a statewide inventory as de-
9 scribed in paragraph (1)(B), may receive grants not
10 exceeding \$2,000,000 annually to assist in the com-
11 pletion of the required inventory.

12 (3) APPROVED STATE RECLAMATION PRO-
13 GRAMS.—In the case of a State described in para-
14 graph (1), the Secretary may make expenditures
15 from the Fund to the State for a State reclamation
16 program that meets the requirements of section 405
17 of the Surface Mining Control and Reclamation Act
18 of 1977 (30 U.S.C. 1235) and is applicable to
19 hardrock mining.

20 (4) STATES WITHOUT APPROVED PROGRAMS.—
21 If a State described in paragraph (1) does not have
22 an approved State program under section 405 of the
23 Surface Mining Control and Reclamation Act of
24 1977 (30 U.S.C. 1235) that is applicable to
25 hardrock mining, the Secretary may provide funds to

1 the State after the Secretary determines that the
2 State has authority to implement a hardrock aban-
3 doned mine land program, and that State authority,
4 at a minimum, includes the establishment of a State
5 reclamation plan for abandoned hardrock mines and
6 clear authorization for the administration and ex-
7 penditure of funds for eligible areas described in
8 subsection (c).

9 (e) PRIORITIES.—Expenditures from the Fund shall
10 reflect the following priorities, in the following order of
11 priority:

12 (1) EXTREME DANGER.—Protection of public
13 health, safety, general welfare, and property from
14 extreme danger of adverse effects of past mining ac-
15 tivity.

16 (2) ADVERSE EFFECTS.—Protection of public
17 health, safety, general welfare, and property from
18 the adverse effects of past mineral activity, including
19 the restoration of land, water, and fish and wildlife
20 resources degraded by the adverse effects of past
21 mining activity.

22 (f) ELIGIBLE REMEDIATING PARTIES.—The Sec-
23 retary may authorize expenditures from the Fund for re-
24 mediation activities conducted by a Federal agency or by
25 remediating parties who are permittees under the aban-

1 doned or inactive mine land waste remediation permit pro-
2 gram, as provided for in section 402(r) of the Federal
3 Water Pollution Control Act (33 U.S.C. 1342(r)).

4 (g) SPECIAL DISBURSEMENT REQUIREMENTS.—

5 (1) SET-ASIDE.—Of the funds collected under
6 section 102 with regard to a mine for a calendar
7 year and deposited in the Fund—

8 (A) 25 percent shall be expended in the eli-
9 gible State in which the mine is located, pursu-
10 ant to an approved abandoned mine land rec-
11 lamation program under subsection (d)(3); and

12 (B) 50 percent shall be expended in the eli-
13 gible States based on each eligible State's per-
14 centage of the value of total national hardrock
15 mineral production during the years 1900
16 through 1980, which the Secretary shall deter-
17 mine using United States Geological Survey
18 Minerals Yearbooks and published metal prices.

19 (2) RELEASE.—If funds allocated pursuant to
20 paragraph (1)(A) have not been expended within
21 three years after collection, the Secretary shall make
22 such funds available to other eligible States as deter-
23 mined appropriate by the Secretary.

1 **TITLE II—GOOD SAMARITAN**
2 **PERMITS FOR ABANDONED**
3 **HARDROCK MINE CLEANUPS**

4 **SEC. 201. ABANDONED OR INACTIVE MINED LAND WASTE**
5 **REMEDATION PERMITS.**

6 Section 402 of the Federal Water Pollution Control
7 Act (33 U.S.C. 1342) is amended by adding at the end
8 the following:

9 “(r) ABANDONED OR INACTIVE MINED LAND WASTE
10 REMEDIATION PERMITS.—

11 “(1) DEFINITIONS.—In this subsection, the fol-
12 lowing definitions apply:

13 “(A) IDENTIFIABLE OWNER OR OPER-
14 ATOR.—The term ‘identifiable owner or oper-
15 ator’ means a person or entity—

16 “(i) that is the current owner or oper-
17 ator or that is or was responsible for the
18 activities at abandoned or inactive mined
19 land that created conditions that cause or
20 contribute to the discharge of pollutants
21 from the abandoned or inactive mined
22 land; and

23 “(ii) that is financially capable of
24 compliance with requirements of this sec-
25 tion and sections 301 and 302.

1 “(B) PERMIT.—The term ‘permit’ means
 2 an abandoned or inactive mined land waste re-
 3 mediation permit described under paragraph
 4 (2).

5 “(C) REMEDIATING PARTY.—The term ‘re-
 6 mediating party’ means—

7 “(i) the United States, except with re-
 8 spect to abandoned or inactive mined land
 9 located on Federal land;

10 “(ii) a State or political subdivision
 11 thereof; or

12 “(iii) an Indian tribe.

13 “(D) COOPERATING PARTY.—The term
 14 ‘cooperating party’ means any person or entity,
 15 including the Federal Government with respect
 16 to abandoned or inactive mined land located on
 17 non-Federal land, that implements the practices
 18 described in paragraph (3)(B)(viii).

19 “(2) PERMITS.—

20 “(A) IN GENERAL.—The Administrator,
 21 with the concurrence of the State in which an
 22 abandoned or inactive mine remediation project
 23 is proposed or the Indian tribe which owns or
 24 has jurisdiction over the land on which a reme-
 25 diation project is proposed, may issue an aban-

1 doned or inactive mined land waste remediation
2 permit to a remediating party for discharges as-
3 sociated with remediation activity at any eligible
4 area under this subsection, that modifies the
5 otherwise applicable requirements of any other
6 subsection of this section and of sections 301
7 and 302.

8 “(B) DELEGATION.—The Administrator
9 may delegate the authority for issuance of
10 abandoned or inactive mined land waste rec-
11 lamation permits for discharges associated with
12 remediation activities at any eligible area under
13 this subsection to a State that is exercising del-
14 egated authority under this section.

15 “(3) PERMIT PROCESS.—

16 “(A) SCOPE.—A remediating party may
17 apply for a permit for remediation activities at
18 abandoned or inactive mined land from which
19 there is or may be a discharge of pollutants to
20 waters of the United States.

21 “(B) REMEDIATION PLAN.—A remediating
22 party that seeks a permit shall submit an appli-
23 cation for the permit that includes a remedi-
24 ation plan that—

1 “(i) identifies the remediating party
2 and any cooperating party with respect to
3 the plan;

4 “(ii) identifies the abandoned or inac-
5 tive mined land addressed by the plan, in-
6 cluding a verification that the land is eligi-
7 ble under this Act;

8 “(iii) identifies the waters of the
9 United States affected by past mining ac-
10 tivities at the abandoned or inactive mined
11 land;

12 “(iv) describes the baseline condition
13 of the waters at the time of the permit ap-
14 plication (including the nature and extent
15 of any adverse water quality impact and,
16 as applicable, the levels of any pollutant
17 causing the impact);

18 “(v) describes the conditions at the
19 abandoned or inactive mined land that are
20 causing adverse water quality impacts;

21 “(vi) describes the applicant’s reason-
22 able efforts to identify—

23 “(I) current owners, lessees, and
24 claimants of the abandoned or inactive

1 mined land addressed by the plan;
2 and

3 “(II) other persons, including
4 mine operators, if any, whose activi-
5 ties at the abandoned or inactive
6 mined land after October 18, 1972,
7 created conditions that cause or con-
8 tribute to the discharge of pollutants
9 from the abandoned or inactive mined
10 land;

11 “(vii) describes the remediation goals
12 and objectives, including the pollutant or
13 pollutants to be addressed by the plan, in-
14 cluding actions taken to meet the applica-
15 ble water quality standards to the max-
16 imum extent practicable, but in no cir-
17 cumstances worse than the baseline water
18 condition as described pursuant to clause
19 (iv);

20 “(viii) describes the practices, includ-
21 ing a schedule and estimated completion
22 date for implementing the practices, that
23 are proposed to meet the applicable water
24 quality standards to the maximum extent
25 practicable, but in no circumstances worse

1 than the baseline water quality as deter-
2 mined under clause (iv), including—

3 “(I) in the case of a new remedi-
4 ation project, the preliminary system
5 design and construction, operation,
6 and maintenance plans; and

7 “(II) in the case of an existing
8 remediation project, available system
9 design and construction, operation,
10 and maintenance plans and any
11 planned improvements to the projects;

12 “(ix) explains how the practices de-
13 scribed in clause (viii) are expected to re-
14 sult in the attainment of applicable water
15 quality standards to the maximum extent
16 practicable, but in no circumstances worse
17 than the baseline water quality as deter-
18 mined under clause (iv);

19 “(x) describes the monitoring or other
20 forms of assessment that will be under-
21 taken to evaluate the success of the prac-
22 tices during and after implementation, rel-
23 ative to baseline conditions;

24 “(xi) describes contingency plans, in-
25 cluding the practices to be implemented to

1 achieve the remediation goals and objec-
2 tives described in clause (vii), for respond-
3 ing to unplanned adverse events;

4 “(xii) provides a schedule for periodic
5 reporting on progress in implementing the
6 plan;

7 “(xiii) provides a budget for the plan
8 and identifies the funding sources that will
9 support the implementation of the plan, in-
10 cluding practices described in clauses (viii),
11 (x), and (xi);

12 “(xiv) describes the applicant’s legal
13 authority to enter and conduct activities at
14 the abandoned or inactive mined land ad-
15 dressed by the plan;

16 “(xv) demonstrates that there is a
17 covenant obligating future landowners to
18 operate and maintain the property so that
19 all environmental benefits of the project
20 authorized by the permit will be fully real-
21 ized;

22 “(xvi) contains any other additional
23 information requested by the Adminis-
24 trator to clarify the plan and the activities
25 covered by the plan; and

1 “(xvii) is signed by the applicant.

2 “(C) REVIEW OF APPLICATION.—

3 “(i) The Administrator or the dele-
4 gated State shall—

5 “(I) review each application for
6 an abandoned or inactive mined land
7 waste remediation permit;

8 “(II) provide to the public notice
9 of and reasonable opportunity to com-
10 ment on the application;

11 “(III) provide an opportunity for
12 a public hearing on the application;
13 and

14 “(IV) determine whether the ap-
15 plication meets the requirements of
16 subparagraph (B).

17 “(ii) If the Administrator or the dele-
18 gated State determines that an application
19 does not meet the requirements of sub-
20 paragraph (B), the Administrator or the
21 delegated State shall—

22 “(I) notify the applicant that the
23 application is disapproved and explain
24 the reasons for the disapproval; and

1 “(II) allow the applicant to sub-
2 mit a revised application.

3 “(iii) If the Administrator or the dele-
4 gated State determines that an application
5 meets the requirements of subparagraph
6 (B), the Administrator or the delegated
7 State shall notify the applicant that the
8 application is accepted.

9 “(D) ISSUANCE.—

10 “(i) After notice and opportunity for
11 public comment on a permit proposed to be
12 issued, including any additional require-
13 ments that the Administrator or the dele-
14 gated State determines would facilitate im-
15 plementation of this subsection, the Ad-
16 ministrator or the delegated State may
17 issue an abandoned or inactive mined land
18 waste remediation permit to the applicant
19 if the Administrator or the delegated State
20 determines that—

21 “(I) relative to the resources
22 available to the remediating party for
23 the proposed remediation activity, the
24 remediating party has made a reason-

1 able effort to identify persons under
2 subparagraph (B)(vi);

3 “(II) no identifiable owner or op-
4 erator exists, except a permit can be
5 issued on Federal land where the only
6 identifiable owner or operator is the
7 Federal Government; and

8 “(III) the remediation plan dem-
9 onstrates with reasonable certainty
10 that the implementation of the plan
11 will meet applicable water quality
12 standards to the maximum extent
13 practicable, but in no circumstances
14 worse than the baseline water condi-
15 tion as described pursuant to subpara-
16 graph (B)(iv), taking into consider-
17 ation the resources available to the re-
18 mediating party for the proposed re-
19 mediation activity.

20 “(ii) If the Administrator or the dele-
21 gated State decides not to issue an aban-
22 doned or inactive mined land waste remedi-
23 ation permit to the applicant, the Adminis-
24 trator shall notify the applicant of the rea-
25 sons for not issuing the permit.

1 “(E) MODIFICATION.—

2 “(i) Not later than 120 days after the
3 receipt of a written request by a permittee,
4 the Administrator or the delegated State
5 shall approve or disapprove a modification
6 of a permit.

7 “(ii) A permit modification approved
8 by the Administrator or the delegated
9 State under this subsection shall be—

10 “(I) by agreement of the per-
11 mittee and the Administrator or the
12 delegated State;

13 “(II) after providing the public
14 notice of, and opportunity for com-
15 ment and a hearing on, a proposed
16 modification of a permit;

17 “(III) in accordance with the
18 standards in subparagraph
19 (D)(i)(III); and

20 “(IV) immediately reflected in
21 and applicable to the remediation per-
22 mit.

23 “(4) CONTENTS OF PERMIT.—

24 “(A) IN GENERAL.—A permit—

1 “(i) shall include a remediation plan
2 approved by the Administrator or the dele-
3 gated State and any additional require-
4 ments that the Administrator or the dele-
5 gated State establishes under paragraph
6 (9); and

7 “(ii) shall provide for compliance with
8 and implementation of the remediation
9 plan and any other requirements described
10 under clause (i).

11 “(B) REVIEW.—A permit shall establish a
12 schedule for review, by the Administrator or the
13 delegated State, of compliance with the condi-
14 tions and limitations of the permit. The Admin-
15 istration or the delegated State shall inspect
16 each site subject to a remediation permit at
17 least annually.

18 “(C) COMPLIANCE WITH OTHER LIMITA-
19 TIONS.—A permit shall require the remediating
20 party to comply with any applicable provisions
21 of this subsection and other subsections of this
22 section and with sections 301 or 302 to the
23 maximum extent practicable in a manner speci-
24 fied in the permit.

1 “(5) FAILURE TO COMPLY.—Failure of a reme-
2 diating party operating under an approved permit to
3 comply with any condition or limit of the permit re-
4 lated to water quality shall be considered a violation
5 subject to enforcement pursuant to sections 309 and
6 505 of this Act.

7 “(6) TERMINATION.—

8 “(A) IN GENERAL.—The Administrator or
9 the delegated State shall terminate a permit
10 if—

11 “(i) the remediating party successfully
12 completes the implementation of the reme-
13 diation plan; or

14 “(ii) the discharges covered by the
15 permit—

16 “(I) become subject to a permit
17 issued under the other subsections of
18 this section for development that is
19 not part of the implementation of the
20 remediation plan; and

21 “(II) the remediating party seek-
22 ing termination of coverage, and any
23 party cooperating with the remedi-
24 ating party with respect to the plan,

1 is not a participant in the develop-
2 ment.

3 “(B) UNFORESEEN CONDITION.—The Ad-
4 ministrator or the delegated State shall termi-
5 nate a permit if—

6 “(i) an event or condition is encoun-
7 tered that was not contemplated or de-
8 signed for by the remediation plan and is
9 beyond the control of the remediating
10 party; and

11 “(ii) the Administrator or the dele-
12 gated State determines that remediation
13 activities under the permit have resulted in
14 surface water quality conditions, taken as
15 a whole and with reference to the des-
16 ignated uses of the waters, that are not
17 worse than the baseline water condition as
18 described pursuant to paragraph
19 (3)(B)(iv).

20 “(C) NO ENFORCEMENT LIABILITY.—

21 “(i) Subject to clause (ii), if a permit
22 is terminated under subparagraph (A) or
23 (B), the remediating party, or a cooper-
24 ating party with respect to the plan, shall
25 not be subject to enforcement under sec-

tion 309 or 505 for any remaining discharges from the abandoned or inactive mined land described in the permit.

“(ii) This subparagraph does not limit any liability of any person, other than the remediating party or a cooperating party.

“(7) LIMITATIONS.—

“(A) EMERGENCY POWERS.—Nothing in this subsection limits the authority of the Administrator under section 504.

“(B) PRIOR VIOLATIONS.—

“(i) Nothing in this subsection precludes actions under section 309 or 505 or affects the relief available in actions under those sections, with respect to violations of this section, or sections 301(a) or 302, that occurred prior to the issuance of a permit under this subsection.

“(ii) If a permit covers remediation activities implemented by the permit holder prior to the issuance of the permit, clause (i) shall not apply to an action that is based on conditions resulting from those remediation activities.

1 “(C) OBLIGATION OF STATES AND INDIAN
2 TRIBES.—Except as expressly provided, nothing
3 in this subsection limits any obligation of a
4 State or Indian tribe under section 303.

5 “(D) OTHER DEVELOPMENT.—Any devel-
6 opment of abandoned or inactive mined land
7 (including mineral exploration, processing,
8 beneficiation, or mining), including development
9 by a remediating party or any cooperating
10 party with respect to the plan, not specifically
11 described in a permit issued by the Adminis-
12 trator or the delegated State under this sub-
13 section shall be subject to this Act (other than
14 this subsection). The commingling of any other
15 discharges or waters with the discharges or wa-
16 ters subject to the remediation permit cannot
17 limit or reduce the liability of persons associ-
18 ated with the other waters or discharges.

19 “(E) RECOVERABLE VALUE.—A remedi-
20 ating party may sell or use materials recovered
21 during the implementation of the plan, but the
22 proceeds of any such sale must be used to de-
23 fray the costs of remediation of the site ad-
24 dressed in the permit or the costs of remedi-

1 ation of other abandoned or inactive sites used
2 for mining hardrock minerals.

3 “(F) STATE CERTIFICATION.—In so far as
4 this subsection may relate to water quality
5 standards, section 401 certification shall not
6 apply to permits under this section; except that,
7 in any case in which section 401 certification
8 would otherwise be required, no permit shall be
9 issued under this subsection without the con-
10 currence of the State in which the discharge is
11 located.

12 “(8) LIABILITY OF OTHER PARTIES.—Nothing
13 in this subsection, including any result caused by
14 any action taken by the remediating party or a co-
15 operating party, limits the liability of any person
16 other than the remediating party or a cooperating
17 party, under this Act or any other law.

18 “(9) REGULATIONS.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), not later than 1 year after
21 the date of enactment of this subsection, the
22 Administrator, in consultation with Secretary of
23 the Interior and the Secretary of Agriculture
24 and State, tribal, and local officials and after
25 providing the public with notice of, and oppor-

1 tunity for comment and a hearing on, regula-
2 tions proposed to be promulgated, shall promul-
3 gate regulations establishing generally applica-
4 ble requirements for—

5 “(i) remediation plans described in
6 paragraph (3)(B); and

7 “(ii) as considered to be necessary by
8 the Administrator, other paragraphs of
9 this subsection.

10 “(B) SPECIFIC REQUIREMENTS BEFORE
11 PROMULGATION OF REGULATIONS.—Before pro-
12 mulgation of regulation pursuant to subpara-
13 graph (A), the Administrator may establish, on
14 a case-by-case basis, after notice and oppor-
15 tunity for public comment, specific require-
16 ments that the Administrator determines would
17 facilitate implementation of this subsection in
18 an individual permit issued to the remediating
19 party.

20 “(10) FUNDING.—Implementation of a remedi-
21 ation plan under a permit issued under this sub-
22 section shall be eligible for grants under section
23 319(h).

24 “(11) REPORT.—

1 “(A) IN GENERAL.—Not later than 1 year
2 before the date of the termination of permitting
3 authority specified in paragraph (12), the Ad-
4 ministrator shall submit to Congress a report
5 on the activities authorized by this subsection.

6 “(B) CONTENTS.—The report required
7 under subparagraph (A), at a minimum, shall—

8 “(i) identify each permit, and associ-
9 ated remediating party, issued under this
10 subsection;

11 “(ii) identify the abandoned or inac-
12 tive mine land addressed by each permit
13 (including the waterbodies and baseline
14 water quality of the waterbodies affected
15 by the land);

16 “(iii) summarize the remediation plan
17 associated with each permit issued under
18 this subsection, including—

19 “(I) the goals and objectives of
20 the plan;

21 “(II) the plan budget; and

22 “(III) the practices to be em-
23 ployed according to the plan to re-
24 duce, control, mitigate, or eliminate
25 adverse water quality impacts;

1 “(iv) identify the status of the
2 implementation of each remediation
3 plan associated with each permit
4 issued under this subsection (includ-
5 ing specific progress that permitted
6 remediation activities have made to-
7 ward achieving the goals and objec-
8 tives of the remediation plan);

9 “(v) identify and describe any en-
10 forcement action taken by the Admin-
11 istrator or any civil action brought by
12 a citizen concerning a permit issued
13 under this section (including the dis-
14 position of the legal action); and

15 “(vi) include recommendations by
16 the Administrator for any modifica-
17 tions to this subsection, or the regula-
18 tions promulgated under paragraph
19 (9) to implement this subsection, that
20 would facilitate the improvement of
21 water quality through the remediation
22 of abandoned or inactive mined land.

23 “(12) TERMINATION OF PERMITTING AUTHOR-
24 ITY.—The authority granted to the Administrator or
25 the delegated State under this subsection to issue an

1 abandoned or inactive mined land waste remediation
2 permit terminates on the date that is 10 years after
3 the date of enactment of this subsection.

4 “(13) ELIGIBLE AREAS.—

5 “(A) SITES.—Permits under this sub-
6 section shall be issued only for reclamation of
7 lands and waters—

8 “(i) located in States that include
9 lands subject to the general mining laws;

10 “(ii) that were but are no longer ac-
11 tively mined for hardrock minerals (and
12 not in temporary shutdown) as of the date
13 of enactment of this subsection; and

14 “(iii) that are not identified for reme-
15 dial action under the Comprehensive Envi-
16 ronmental Response, Compensation, and
17 Liability Act of 1980 (42 U.S.C. 9601 et
18 seq.) and for which there is no identifiable
19 owner or operator for the mine or mine fa-
20 cilities;

21 “(iv) that are not designated for re-
22 medial action pursuant to the Uranium
23 Mill Tailings Radiation Control Act of
24 1978 (42 U.S.C. 7901 et seq.); and

1 “(v) for which no evidence exists that
2 the lands contain minerals which could
3 economically be extracted through the min-
4 ing, reprocessing, or remining of such
5 lands.

6 “(B) DEFINITIONS.—In this paragraph,
7 the following definitions apply:

8 “(i) The term ‘hardrock minerals’
9 means any mineral other than a mineral
10 that would be subject to any of the fol-
11 lowing if located on land subject to the
12 general mining laws:

13 “(I) The Mineral Leasing Act
14 (30 U.S.C. 181 et seq.).

15 “(II) The Geothermal Steam Act
16 of 1970 (30 U.S.C. 100 et seq.).

17 “(III) The Act of July 31, 1947,
18 commonly known as the Materials Act
19 of 1947 (30 U.S.C. 601 et seq.).

20 “(IV) The Mineral Leasing Act
21 for Acquired Lands (30 U.S.C. 351 et
22 seq.).

23 “(ii) The term ‘general mining laws’
24 means those provisions of law that gen-
25 erally comprise chapters 2, 12A, and 16

1 and sections 161 and 162 of title 30,
2 United States Code.”.

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